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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Richard S. Slevin

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EXAMINER

ZIA, SYED

ART UNIT

PAPER NUMBER

2131

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/761,112	SLEVIN, RICHARD S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Syed Zia	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to amendment filed on May 03, 2006. Original application contained Claims 1-2. Applicant previously added new Claims 3-49. Applicant previously amended Claims 1-3, 24, 26, and 47-49. Applicant currently amended Claims 1-3, 6, 9-11, 16-17, and 26-49. Amendment filed have been entered and made of record. Presently pending claims are 1-49.

### ***Response to Arguments***

Applicant's arguments filed on May 03, 2006 with respect to claims 1-49 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 47-48 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In this case nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not

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statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored in a computer-readable medium, in a computer, on an electromagnetic carrier signal does not make it statutory. Also, a signal, a form of energy, does not fall within the definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novikov et al. (U. S. Patent 6,282,304) and view of Teitelbaum (U. S. Patent 5,872,834).

3. Regarding Claim 1 Novikov teach and describe a biometric controlled power gate controlling a power flow from a power source to an electrically powered device, comprising:

- a circuit of the device energized by the power flow for enabling a startup procedure of a processor of the device; a biometric-controlled switch, coupled to said circuit between the power source and said processor, for enabling said energizing of said circuit responsive to an assertion of a biometric activation signal (col.5 line 6 to col.7 line 16); and

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- a biometric reader coupled to said biometric-controlled switch, comprising: a memory for storing a biometric signature (col.5 line 15 to line 25); a biometric sensor, coupled to said memory, for discerning a biometric profile (col.5 line 26 to line 42); and a verifier (col.9 line 60 to line 65), coupled to said biometric sensor and to said memory, for asserting said biometric activation signal when said biometric profile matches said biometric signature wherein said electronic device is inoperable from the power source until said assertion of said biometric activation signal(col.13 line 14 to line 20, and col.17 line 11 to line 19).

Although the system disclosed by Novikov shows all the features of the claimed limitation, but Novikov does not specifically disclose gating functionality using biometric Novikov biometric controlled switch.

In an analogous art, Teitelbaum, on the other hand discloses computing environment that relates to methods and apparatus for receiving biometric input information and for providing biometric data to the a switch for establishing a communication link, such as start and stop of access control, between at least a user and the at least a device user is trying to access, and thus providing features and enabling services in dependence upon received biometric data (col.2 line 42 to line 52).

Therefore, It would have been obvious to one ordinary skilled in the art at the time of invention to combine the teachings of Novikov and Teitelbaum, because Teitelbaum's method of controlling a switch using biometric input by using directly connection would not only promote security structure in the system of Novikov during startup of a device and access

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control but will also provide safeguards against attempt by unauthorized person to breach security of system (col.1 line 65 to col.2 line 5).

4. Regarding Claim 2 Novikov teach and describe a method for power gating an electronic device powered from a power source, comprising:

- discerning a biometric profile of a prospective user of the electronic device (col.5 line 26 to line 42); and comparing said biometric profile to a stored biometric signature of an authorized user of the electronic device; and thereafter asserting a biometric activation signal to a biometric-controlled switch when said prospective user is an authorized user, said biometric-controlled switch interposed between the power source and a circuit of the electronic device for enabling a startup procedure of said electronic device such that said biometric-controlled switch interrupts power to said circuit when said activation signal is not asserted wherein said startup procedure is inoperable from the power source until said assertion of said biometric activation signal (col.5 line 25 to line 42, col.13 line 14 to line 20, and, and col.16 line 56 to col.17 line 19).

5. Regarding Claim 3 Novikov teach and describe a biometric power gating system for controlling power from a power source to a circuit, comprising:

an electronic device including the circuit operable from the power provided from the power source, a biometric-controlled switch, coupled to said electronic device between the power source and the circuit, for gating the power from the power source responsive to a biometric activation signal (Fig.1, col.5line 6 to line 52, and col.9 line 10 to line 18); and a biometric reader for asserting said biometric activation signal responsive to a verification of a user

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biometric signature wherein said electronic device is inoperable from the power from the power source until said biometric activation signal is asserted (col.5 line 26 to line 32).

6. Regarding Claim 24 Novikov teach and describe a biometric-mediated power gating method, comprising.

establishing a biometric profile from a prospective user (col.16 line 21 to line 55);

comparing said biometric profile to a biometric signature; asserting a biometric activation signal when said profile and said signature match; and gating, responsive to said biometric activation signal, power from a power source to an electronic device using a biometric switch coupled to said biometric activation signal to enable operation of said electronic device wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal and wherein said biometric access control is disposed between said power source and said electronic device to control said power thereafter (col.16 line 56 to col.17 line 19).

7. Regarding Claim 26 Novikov teach a biometrics-mediated power gating method, comprising:

a) asserting a biometric activation signal responsive to a verification of a user biometric signature (col.16 line 56 to col.17 line 19); and

b) gating, responsive to said biometric activation signal, power from a power source to an electronic device operable from said power using a biometric-controlled switch operably disposed between said power source and said electronic device wherein said electronic device is

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inoperable from said power source until said assertion of said biometric activation signal (col.5 line 6 to line 52, and col.9 line 10 to line 18).

8. Regarding Claim 47 Novikov teach and describe a computer program product comprising a computer readable medium carrying program instructions for power gating an electronic device when executed using a computing system, the executed program instructions executing a method (col.8 line 25 to line 48), the method comprising:

a) asserting a biometric activation signal responsive to a verification of a user biometric signature (col.16 line 56 to col.17 line 19); and

b) gating, responsive to said biometric activation signal, power from a power source to the electronic device operable from said power using a biometric-controlled switch operably disposed between said power source and the electronic device (col.5 line 6 to line 52, and col.9 line 10 to line 18).

9. Regarding Claim 48 Novikov teach and describe a propagated signal on which is instructions which is carried computer-executable instruction which when executed by a computing system performs a power gating method (col.5 line 19 to line 25, and col.5 line 60 to line 67), the method comprising.

a) asserting an activation signal responsive to a verification of a user biometric signature (col.16 line 56 to col.17 line 19); and



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b) gating, responsive to said activation signal, power from a power source to the electronic device operable from said power using a switch operably disposed between said power source and said electronic device wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal (col.5 line 6 to line 52, and col.9 line 10 to line 18).

10. Regarding Claim 49 Novikov teach and describe a biometric-apparatus for gating power, comprising.

means, responsive to a verification of a user biometric signature, for asserting a biometric activation signal to enable a power source (col.16 line 56 to col.17 line 19), and

means, responsive to said biometric activation signal, for gating power from said power source to an electronic device operable from said power using a biometric-controlled switch operably disposed between said power source and said electronic device wherein said electronic device is inoperable from said power source until said assertion of said biometric activation signal (col.5 line 6 to line 52, and col.9 line 10 to line 18).

11. Claims 4-15, 18, 21, 25, 27-29, 32-37, 38, 41, and 44 are rejected applied as above rejecting Claims 3, 24, and 26. Furthermore, Novikov teach and describe a biometric access control of power gating provided to operate components of the electronic device, wherein:

- said biometric signature includes a fingerprint, a retinal pattern (col.9 line 67 to col.10 line 9),

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- a portable electronic device, a personal data assistant (PDA), includes a laptop computer (col.1 line 53 to line 57);

- said power source includes a battery, a power supply, a direct power (col.9 line 18 to line 27);

- said switch is integrated into said electronic, the power source, said biometric reader, and said switch is a state device for storing an operational mode (Fig.1, col.5 line 33 to line 42);

- said electronic device includes a plurality of BIOS routines and wherein said switch selectively activates one or more of said BIOS routines responsive to said activation signal (Fig.1, Item 50, 54, and 57).

- said electronic device enables access to a set of resources responsive to an authentication and wherein said switch provides said authentication responsive to said activation signal (col.5 line 33 to line 42).

- said gating step d) operation enablement includes initiating a boot sequence of said electronic device (col.8 line 8 to line 25);

12. Claims 16,19, 22, 30-31, 39, 42, and 45 are rejected applied as above rejecting Claims 15, 18, 21, 29, 38, 41, and 44. Furthermore, Novikov teach and describe a biometric access control of power gating provided to operate components of the electronic device, wherein:

- said operational mode maintains said gating of said power from said power source after receiving an asserted activation signal (col.8 line 8 to line 60).

- said biometric reader discriminates between a first user and a second user, with said activation signal identifying a particular one of said users (col.9 line 28 to line 60);

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- biometric reader for asserting said activation signal responsive to said verification of said biometric signature, the method further comprising discriminating between a first user and a second user, with said activation signal identifying a particular one of said users (col.8 line 8 to line 60, and col.9 line 28 to line 60).

13. Claims 17, 20, 23, 40, 43, and 46 are rejected applied as above rejecting Claims 16, 19, 22, 39, 42, and 45. Furthermore, Novikov teach and describe a biometric access control of power gating provided to operate components of the electronic device, wherein:

- said operational mode is reset to disable said power from said power source when said electronic device is inactivated pending reassertion of said activation signal (col.5 line 33 to line 42);

- said switch selectively activates said one or more said BIOS routine responsive to said particular one user with said switch activating a different one or more of said BIOS routines for said first user than activated for said second user (Fig.1, Item 50, 54, and 57, and col.9 line 28 to line 60);

- said switch selectively enables access to one or more resources of said set of resources responsive to said particular one user with said switch signaling enablement of a different one or more resources for said first user than enabled for said second user (col.5 line 33 to line 42);

- said portable electronic device includes a personal data assistant (PDA), and a laptop computer (col.1 line 53 to line 57);

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- resetting said operational mode to disable said power from said power source when said electronic device is inactivated pending a reassertion of said activation signal (col.5 line 33 to line 42);

- activating selectively said one or more said BIOS routine responsive to said particular one user wherein a different one or more of said BIOS routines are activated for said first user than are activated for said second user (Fig.1, Item 50, 54, and 57, and col.9 line 28 to line 60);

- selectively enabling access to one or more resources of said set of resources responsive to said particular one user with a different one or more resources enabled for said first user than are enabled for said second user (Fig.1, Item 50, 54, and 57, and col.9 line 28 to line 60).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 571-272-3798. The examiner can normally be reached on 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
July 18, 2006